



CITY COUNCIL AGENDA REPORT

MEETING DATE: DECEMBER 6, 2011

ITEM NUMBER:

PH-2

SUBJECT: APPEAL OF AMENDMENT TO DEVELOPMENT REVIEW DR-99-22 A2 FOR EXPANDED WINTER HOLIDAY OPERATING HOURS FOR TARGET COSTA MESA 3030 A HARBOR BOULEVARD

DATE: NOVEMBER 22, 2011

FROM: DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MEL LEE, AICP, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, (714) 754-5611
mel.lee@costamesa.gov

RECOMMENDATION:

Uphold, reverse, or modify the Planning Commission's decision to approve the midnight opening of Target on Black Friday on an annual basis and to deny Target's request to extend the currently-approved winter holiday hours.

BACKGROUND:

History of Target's Store Hours

On March 13, 2000, Planning Commission approved Development Review DR-99-22 to construct a 143,500 square foot Target store, a 3,420 square foot district office, and a 10,830 square foot outdoor garden center (now closed).

The approved regular store hours pursuant to Condition of Approval No. 57 are 8:00 am to 10:00 pm, seven days a week.

On November 13, 2000, Planning Commission approved winter "holiday hours" for Target from the day after Thanksgiving ("Black Friday") to New Year's Day.

On July 11, 2005, Planning Commission denied a request to allow Target to open an hour earlier during the winter holiday season period.

On November 14, 2011, Planning Commission approved, in part and subject to conditions, the applicant's request for a midnight opening on Black Friday, the day after Thanksgiving. However, Planning Commission denied the request to further extend the remaining holiday hours.

The following table provides information regarding the applicant's recent request to further modify the holiday hours (DR-99-22 A2), as well as a summary of the various store hours.

PLANNING APPLICATION SUMMARY

TABLE 1
Target's Winter Holiday Hours (Annually)

From the Day after Thanksgiving to January 1 (Annually)		Key Differences in Store Hours Compared to Current Holiday Hours
Originally Approved Winter Holiday Hours (DR-99-22 A)		
<ul style="list-style-type: none"> 7:00 am to 11:00 pm – Day after Thanksgiving (Black Friday) 7:00 am to 11:00 pm – Monday through Friday 8:00 am to 11:00 pm – Saturday and Sunday 		Current Holiday Hours: Open at 7AM (Mon-Fri only) Close by 11PM (all days)
Proposed Winter Holiday Hours		
<ul style="list-style-type: none"> 12 pm/midnight to 11:00 pm – Day after Thanksgiving only 7:00 am to 12 pm/midnight – Seven days a week thereafter 		Proposed by Target: Midnight Opening for Black Friday Open one hour earlier (7AM) on Sat/Sun Close one hour later (12PM) on All Days
Winter Holiday Hours as determined by Planning Commission:		
<ul style="list-style-type: none"> 12 pm/midnight to 11:00 pm – Day after Thanksgiving only 7:00 am to 11:00 pm – Monday through Friday thereafter 8:00 am to 11:00 pm – Saturday and Sunday thereafter 		Action by PC: <u>Approve</u> Midnight Opening on Black Friday, subject to conditions. <u>Deny</u> request to open one hour earlier (7AM) and one hour later (12 PM). *Current holiday hours would therefore be unchanged, excluding Black Friday.

TABLE 2
Target Stores Regular (Non-Holiday) Hours*

	Monday Through Friday	Saturday	Sunday
Costa Mesa	8:00 am to 11:00 pm**	8:00 am to 11:00 pm**	8:00 am to 10:00 pm
Huntington Beach	8:00 am to 11:00 pm	8:00 am to 11:00 pm	8:00 am to 10:00 pm
Irvine - Barranca Pkwy.	8:00 am to 10:00 pm	8:00 am to 10:00 pm	8:00 am to 9:00 pm
Irvine - Jamboree Rd.	8:00 am to 11:00 pm	8:00 am to 11:00 pm	8:00 am to 10:00 pm
Santa Ana - Bristol St.	8:00 am to 11:00 pm	8:00 am to 11:00 pm	8:00 am to 10:00 pm
Santa Ana - E. 17th St.	8:00 am to 10:00 pm	8:00 am to 10:00 pm	8:00 am to 9:00 pm
Tustin	8:00 am to 10:00 pm	8:00 am to 10:00 pm	8:00 am to 9:00 pm

*Source: Target.com

**As of November 11, 2011, Target Costa Mesa has been closing at 10:00 pm per DR-99-22 (see page 6 of staff report discussion)

Appeal of Planning Commission's Decision

On November 21, 2011, Mr. Al Morelli submitted an appeal of the Planning Commission's action to approve the midnight opening on Black Friday (November 25). In his attached appeal application, the appellant expressed concerns with the Black Friday hours, changes to the original store hours as approved in Year 2000, noise impacts in residential areas, and Target's noncompliance with certain conditions of approval (Attachment 3, Appeal Application).

It should be noted that while the appeal application refers to the Black Friday hours, the appeal hearing is a **de novo hearing**, which is not limited to the Black Friday decision only. The de novo hearing would also consider the original proposal in its entirety, including Target's request to further extend its holiday hours during the holiday season.

ANALYSIS:

De Novo Hearing

The purpose of this report is to highlight and/or clarify the evidence in the administrative record that was presented to the Planning Commission prior to its action to approve the proposed project. Because the Planning Commission's action is not final due to the appeal, the Council's decision will affect the future holiday hours on an annual basis, including Black Friday events.

Other than a more current update of the code enforcement activity since the Planning Commission hearing, this report does not contain any new evidence that was not considered by the Planning Commission nor provides any further justification for the approval of the request.

Summary in Brief -- November 14, 2011 Planning Commission Meeting

By a vote of 5-0, Planning Commission approved the applicant's requested hours of 12 midnight to 11:00 pm the day after Thanksgiving only, known as "Black Friday," for Target Costa Mesa on an annual basis, which is consistent with the hours for other Target stores in the region. The hours of operation of 7:00 am to 11:00 pm Mon.-Fri., and 8:00 am to 11:00 pm Sat. and Sun. from the day after Black Friday to New Year's Day as approved under DR-99-22 A remain unchanged.

The basis for the Commission's decision to approve the Black Friday hours and not approve the remaining requested hours was based on a complaint received from the appellant that Target was operating in violation of their approved non-holiday hours of 8:00 am-10:00 pm, seven days a week. At the hearing, Target representatives stated that for the last year and a half, the store was closing at 11:00 pm Monday through Saturday (the store was still closing at 10:00 pm on Sundays).

The Planning Commission staff report and resolution is attached to this report for reference (Attachments 5 and 6). The "unofficial until approved" meeting minutes are also attached (Attachment 4).

A link to the online video of the public hearing can be found at:
http://costamesa.granicus.com/MediaPlayer.php?view_id=4&clip_id=1814

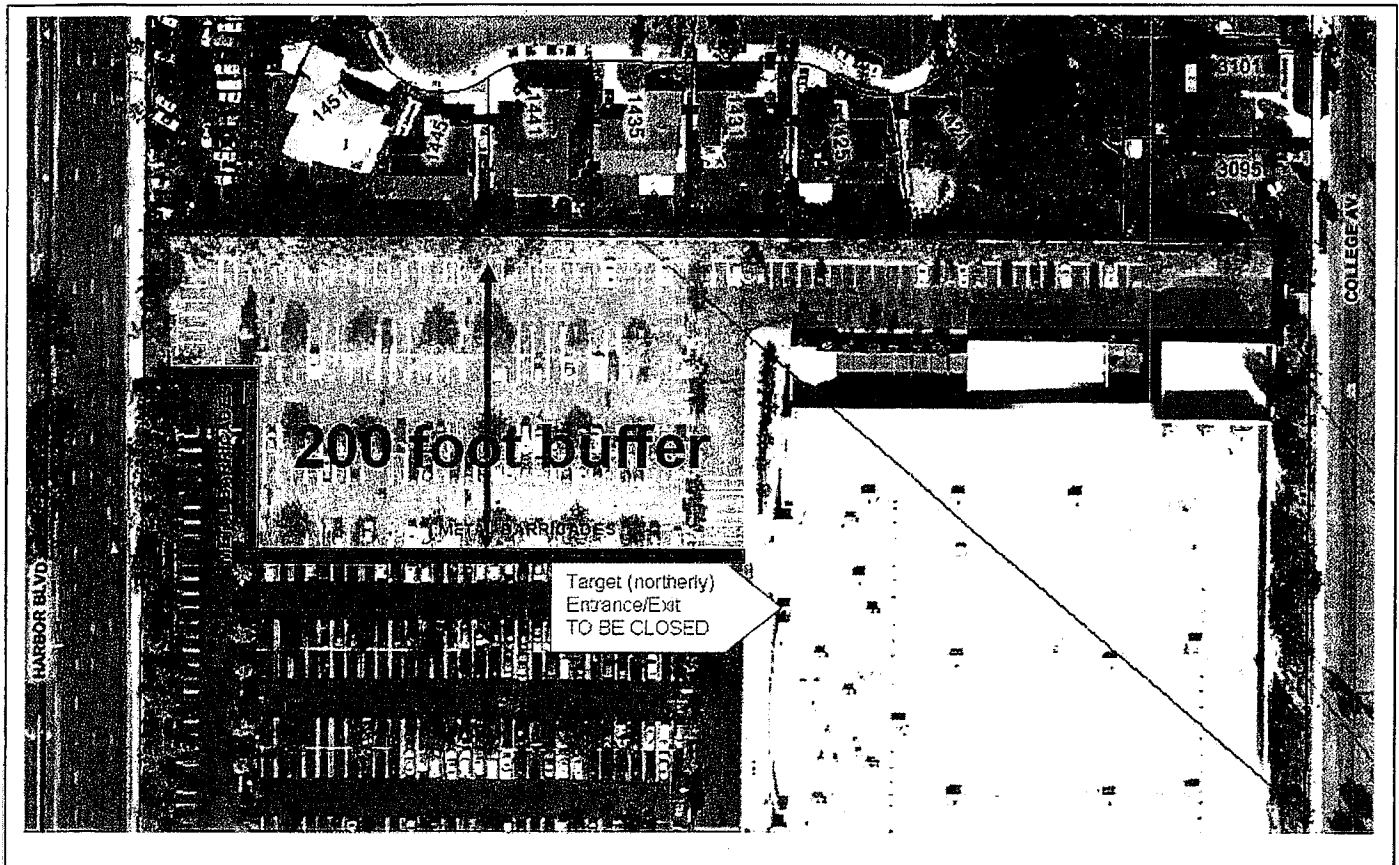
Conditions of Approval – Black Friday Event

The Commission also added two conditions of approval (condition numbers 7 and 8) that called for the closing of the driveway access from College Avenue and the creation of a 200 foot buffer zone from residential properties from 11:00 pm to 7:00 am the day of the Black Friday sale day only in order to minimize impacts to the adjacent residential properties. They also modified condition number 4 to require additional on-site security within the parking area.

The specific conditions are as follows:

- The operator shall install barricades to close the driveway access from College Avenue and post appropriate signage advising customers of the driveway closure during the Black Friday sale.
- The operator shall install barricades to provide a 200-foot buffer zone along the northerly parking area to prevent customers from parking within the area during the Black Friday sale.
- The operator shall be required to provide additional on-site security within the parking area.

Figure A – 200-foot buffer zone



In its approval of the Black Friday midnight opening, Commission considered the following:

- The Police Department had no objections to the proposed use.

The Police Department reviewed the proposed extended hours and had no objections to the proposal. All Target stores are required to adhere to a crowd control plan implemented by Target's corporate offices and with input from law enforcement.

- The economic benefits to the local economy from the Black Friday event.

Costa Mesa community will gain a benefit from the extended winter holiday hours as City residents will not have to travel to Target stores outside of the City that open earlier for holiday sales. Other Target stores in Santa Ana and Irvine will observe the same extended holiday hours. Additionally, there would be a tangible economic benefit in terms of additional sales tax revenue to the City as a result of the extended holiday hours.

- Approval is subject to compliance with the 200-foot buffer zone requirement, increased on-site security detail, and closure of College Avenue access.

The added conditions for the Black Friday event would minimize noise impacts to adjacent residential areas along Shamrock Lane and College Avenue.

In its denial of the remainder of the request for extended holiday hours, Commission considered:

- Public comments regarding noise impacts;
- Issues with Target's noncompliance with existing conditions of approval. One of the primary concerns was that Target had remained open up to 11:00 pm during the nonholiday season for over a year. Target has adhered to the 10:00 pm closing time since Thursday, November 10, 2011. On-site sign postings at the Target store reflect the 10:00 pm closing time (see Attachment 1).

Code Enforcement Activity

Attached is a supplemental memo to the Planning Commission dated November 14, 2011 regarding the historic code enforcement activity. (Attachment 7). To reduce the amount of paper for this report, the complaints are not attached; however, copies can be made available upon request.

Since the preparation of the Code Enforcement memo, two additional complaints have been received, which are currently under investigation:

- 11/15/11 - Missing drainage grates in two (2) locations and the truck height limit rail for the College Avenue exit has been removed and is lying on the ground north of the exit.
- 11/20/11 Parking lot power wash (loud noise) at 7:00am.

ALTERNATIVES CONSIDERED:

As a de novo hearing, City Council has the following options in this case:

- A. Alternative A, "Uphold Commission's Action": Uphold the Commission's action by approving the Black Friday midnight opening and denying the remainder of the extended holiday hours as requested by Target (Attachment 2, Resolution A).
- B. Alternative B, "Uphold Appellant's Request": Modify the Commission's action regarding the Black Friday event by denying the midnight opening of Black Friday as requested by the appellant. Draft Resolution #B represents a **complete denial** of Target's request for the midnight Black Friday event and also the extended holiday hours (Attachment 2, Resolution B).
- C. Alternative C, "Uphold Target's Proposal": Reverse the Commission's action by approving the applicant's request in its entirety. Draft Resolution #C represents a **complete approval** of Target's request for the midnight Black Friday event and also the extended holiday hours (Attachment 2, Resolution C).

It should be noted that, regardless of which of the above alternatives is selected by City Council, Target could still continue to operate under their originally approved winter holiday hours per DR-99-22 A as shown in Table 1.

For clarity, the following summary table provides information on the store hours based on each of these alternatives:

TABLE 3
SUMMARY OF ALTERNATIVES (A - C)
Target's Holiday Hours on an Annual Basis

Holiday Schedule on an Annual Basis <i>From the Day after Thanksgiving to January 1 (Every Year)</i>	
ALTERNATIVE A – “UPHOLD COMMISSION’S ACTION” UPHOLD PLANNING COMMISSION’S DECISION Allow Midnight Black Friday Only; No other changes to existing holiday hours.	
<ul style="list-style-type: none"> o 12 pm/midnight to 11:00 pm – Day after Thanksgiving only o 7:00 am to 11:00 pm – Monday through Friday, <i>thereafter</i> o 8:00 am to 11:00 pm – Saturday and Sunday, <i>thereafter</i> 	
ALTERNATIVE B – “UPHOLD APPELLANT’S REQUEST” MODIFY THE PLANNING COMMISSION’S DECISION Appellant’s request to deny any modified holiday hours. No Change in Existing Holiday Hours.	
<ul style="list-style-type: none"> o 7:00 am to 11:00 pm – Day After Thanksgiving o 7:00 am to 11:00 pm – Monday through Friday o 8:00 am to 11:00 pm – Saturday and Sunday 	
ALTERNATIVE C – “UPHOLD TARGET’S PROPOSAL” REVERSE THE PLANNING COMMISSION’S DECISION Applicant’s request for extended holiday hours, including midnight Black Friday.	
<ul style="list-style-type: none"> o 12 pm/midnight to 11:00 pm – Day After Thanksgiving only o 7:00 am to 12 pm/midnight – Seven Days a Week, <i>thereafter</i> 	

ENVIRONMENTAL REVIEW

The request has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.

If the request is denied, it is exempt from the provisions of CEQA Section 15270(a) for Projects Which Are Disapproved.

GENERAL PLAN CONFORMITY

With the recommended conditions of approval, the request will be consistent with surrounding uses, as specified in Objective LU-1F.2 of the General Plan Land Use Element.

LEGAL REVIEW:

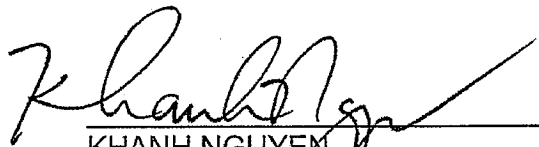
The City Attorney's Office has reviewed the attached resolutions and approved them as to form.

CONCLUSION:

De novo literally translates to "anew," "afresh" or "a second time." A de novo hearing is essentially a new proceeding where the proposal is presented to the City Council for final consideration. In its decision making, Council is not restricted to the evidence that was previously presented to the Planning Commission. In this case, the City Council may uphold, reverse, or modify the discretionary decision of the Planning Commission.



MEL LEE, AICP
Senior Planner



KHANH NGUYEN
Interim Development Services Director

ATTACHMENTS:

1. Location Map and Site Photos
2. Draft City Council Resolutions
3. Appeal Application
4. Planning Commission Minute Excerpts
5. Planning Commission Report With Attachments
6. Planning Commission Resolution
7. Target Code Enforcement Cover Memo
8. Correspondence Received From Public

DISTRIBUTION:

Chief Executive Officer
Interim Assistant Chief Executive Officer
City Attorney
Interim Development Services Director
Public Services Director
Transportation Services Manager
City Clerk (2)
Staff (4)
Planning Staff (8)
File (2)

John Warren, AICP
Pacific Land Services
2151 Salvio Street, Suite S
Concord, CA 94520

Target Corporation
Attn: Timothy Kindig
3030 A Harbor Boulevard
Costa Mesa, CA 92626

Target Corporation
PO Box 9456
Minneapolis, MN 55440

Al Morelli
3412 Geranium Street
Costa Mesa, CA 92626

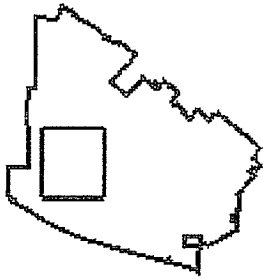
File: CC120611DR9922A2appeal.doc	Date: 11/28/2011	Time: 11:00 am
----------------------------------	------------------	----------------

ATTACHMENT 1
LOCATION MAPS AND SITE PHOTOS

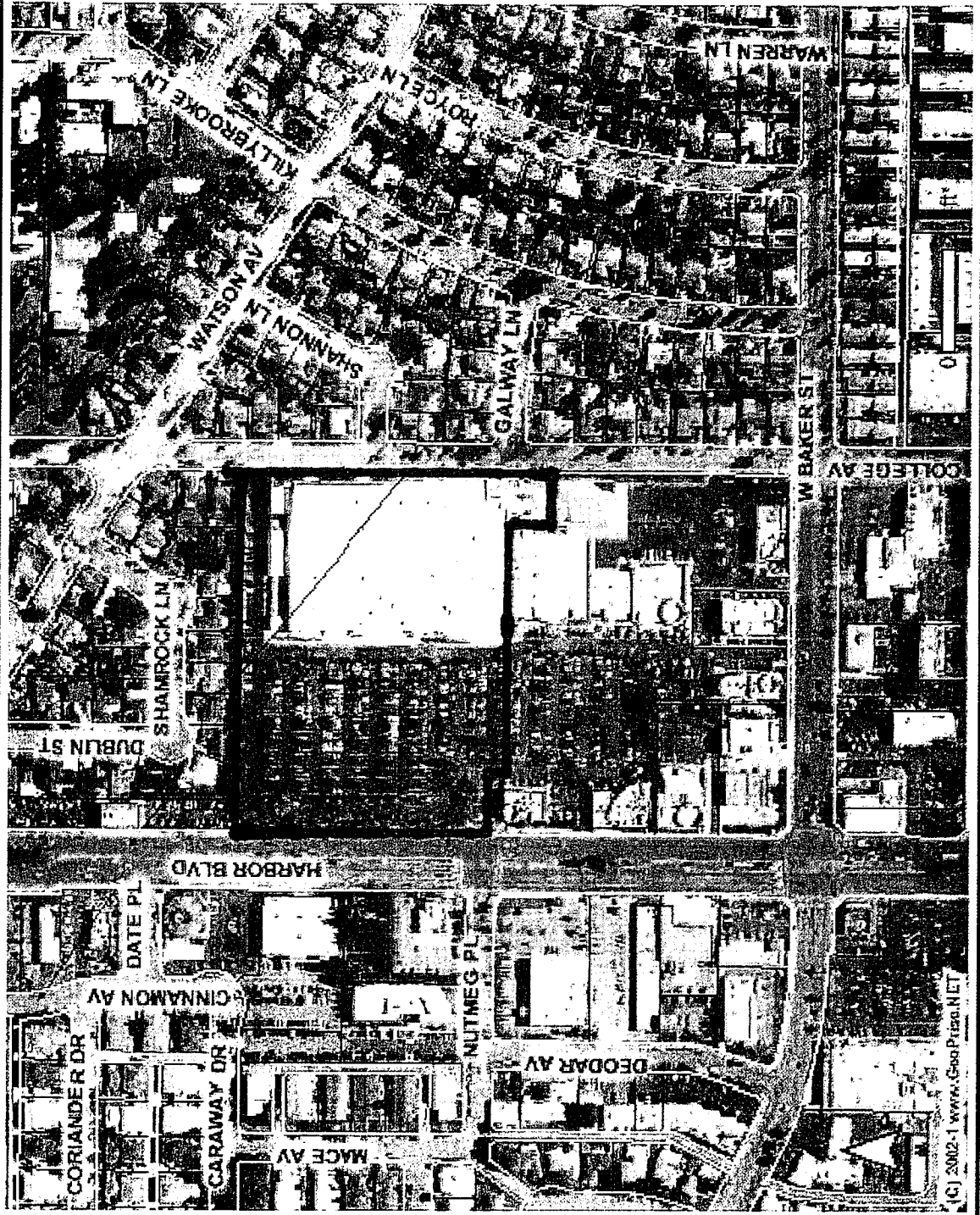
City of Costa Mesa

CITY OF COSTA MESA - [Created: 10/24/2011 9:54:46 AM] [Scale: 411.72] [Page: 8.5 x 11 / Landscape]

Overview Map



Map Display



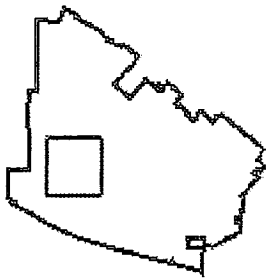
Legend

Hydrology	Water Ways
Channel	Ortho 2010 Level3
Street Names	Ortho 2008 Level3
ROW Lines	Ortho 2006 Level3
Parcel Lines	Parcels

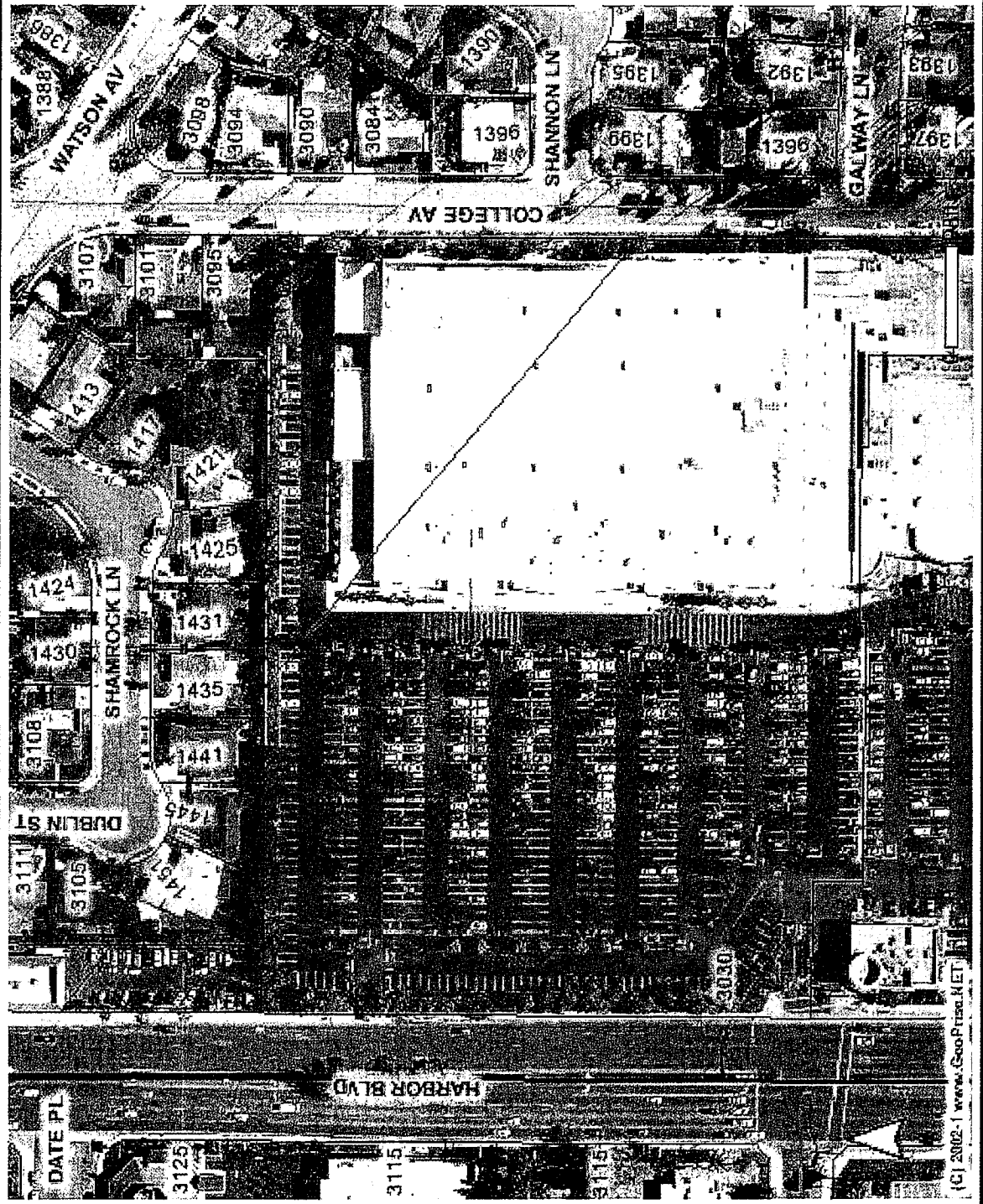
City of Costa Mesa

CITY OF COSTA MESA - [Created: 11/8/2011 9:56:01 AM] [Scale: 189] [Page: 8.5 x 11 / Landscape]

Overview Map

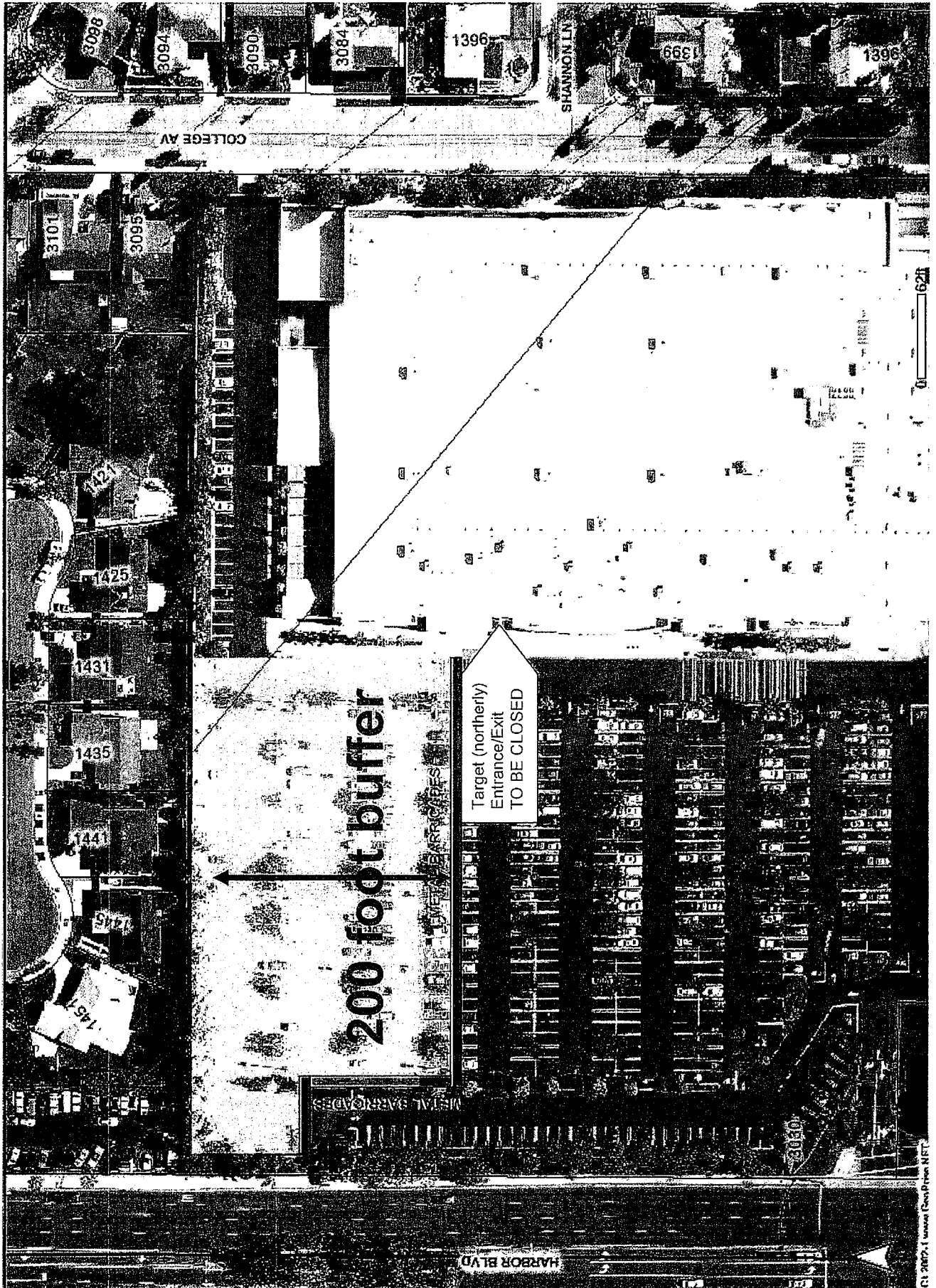


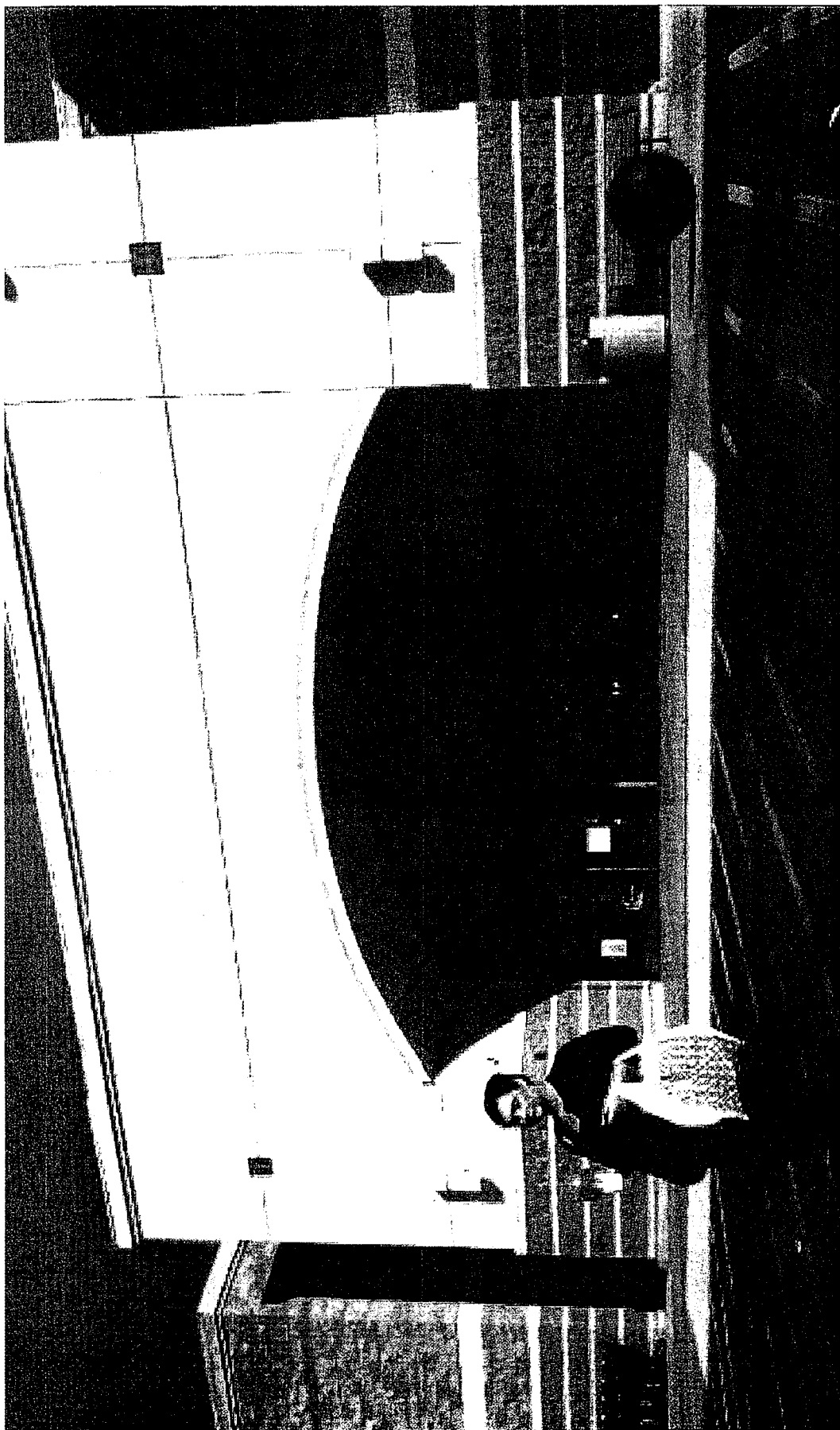
Map Display



Legend

Address Medium	Primary
Address Points	SECONDARY
Freeway	Hydrology
Roads	Channels
Collector	Street Names
Freeway	Street Centerlines
Major	
Newport Blvd (cont)	





Due to unforeseen circumstances
we will be closing at 10:00PM
tonight.

We are truly sorry for the
inconvenience!

PHOTO OF TARGET COSTA MESA HOURS SIGN TAKEN
NOVEMBER 22, 2011

ATTACHMENT 2
DRAFT CITY COUNCIL RESOLUTIONS

RESOLUTION NO. 11-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA APPROVING DEVELOPMENT REVIEW
AMENDMENT DR-99-22 A2 FOR EXTENDED ANNUAL
WINTER HOLIDAY HOURS FOR TARGET COSTA MESA AS
AMENDED

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS
FOLLOWS:

WHEREAS, an application was filed by John Warren, authorized agent for Target Corporation, requesting approval to amend the condition of approval for Target Costa Mesa's annual operating hours from the day after Thanksgiving to New Year's Day as follows:

- o 12 midnight to 11:00 pm the day after Thanksgiving, and 7:00 am to 12:00 am seven days a week thereafter until New Year's Day.

WHEREAS, a duly noticed public hearing held by the Planning Commission on November 14, 2011 with all persons having the opportunity to speak and be heard for and against the proposal, and DR-99-22 A2 was approved as amended;

WHEREAS, on November 21, 2011, the Planning Commission's decision for DR-99-22 A2 was appealed by a resident;

WHEREAS, a duly noticed public hearing was held by the City Council on December 6, 2011.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the City Council hereby **APPROVES** DR-99-22 A2 as amended.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for DR-99-22 A2 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B" as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 6th day of December, 2011.

GARY MONAHAN
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

CITY CLERK OF THE
CITY OF COSTA MESA

CITY ATTORNEY

STATE OF CALIFORNIA)

I, JULIE FOLCIK, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution No. 11__ as considered at a regular meeting of said City Council held on the ____ day of _____, 2011, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the ____ day of _____, 2011, by the following roll call vote:

NOES:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2011.

EXHIBIT "A"**FINDINGS**

- A. The proposal complies with Costa Mesa Municipal Code Section 13-29(e) because:
 - 1. Compatible and harmonious relationship between the use and site development, and use(s), and the building and site developments, and uses that exist or have been approved for the general neighborhood. Specifically, the request would be subject to applicable conditions of approval to ensure that no adverse impacts to adjacent uses and properties is created, including requiring the use be operated in a manner that will allow the quiet enjoyment of the surrounding neighborhood, and additional on-site security if requested by the Police Department.
 - 2. Compliance with any performance standards as prescribed elsewhere in this Zoning Code.
 - 3. Consistency with the general plan and any applicable specific plan.
 - 4. The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.
 - 5. The cumulative effect of all the planning applications has been considered.
- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City's environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

- PIng. 1. The use shall be limited to the type of operation as described in the staff report. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment to the development review, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
2. A copy of the conditions of approval shall be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
3. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute whatever security and operational measures are necessary to comply with this requirement.
4. The operator shall be required to provide additional on-site security within the parking area.
5. The use shall be limited to the following hours of operation on an annual basis: 12 midnight to 11:00 pm the day after Thanksgiving only, known as "Black Friday". Changes to the winter holiday hours of operation that extend the opening and closing times past the above hours shall be submitted to the Planning Commission for review.
6. All other applicable conditions of approval for DR-99-22 and its subsequent amendments shall remain in effect.
- PIng.
Comm. 7. The operator shall install barricades to close the driveway access from College Avenue and post appropriate signage advising customers of the driveway closure during the Black Friday sale. The barricades shall be installed no later than 11:00 pm the day of the sale and shall be removed no later than 7:00 am the day of the sale.
- PIng.
Comm. 8. The operator shall install barricades to provide a 200-foot buffer zone along the northerly parking area to prevent customers from parking within the area during the Black Friday sale. The barricades shall be installed no later than 11:00 pm the day of the sale and shall be removed no later than 7:00 am the day of the sale.

RESOLUTION NO. 11-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA DENYING DEVELOPMENT REVIEW AMENDMENT
DR-99-22 A2 FOR EXTENDED ANNUAL WINTER HOLIDAY
HOURS FOR TARGET COSTA MESA**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by John Warren, authorized agent for Target Corporation, requesting approval to amend the condition of approval for Target Costa Mesa's annual operating hours from the day after Thanksgiving to New Year's Day as follows:

- o 12 midnight to 11:00 pm the day after Thanksgiving, and 7:00 am to 12:00 am seven days a week thereafter until New Year's Day.

WHEREAS, a duly noticed public hearing held by the Planning Commission on November 14, 2011 with all persons having the opportunity to speak and be heard for and against the proposal, and DR-99-22 A2 was approved as amended;

WHEREAS, on November 21, 2011, the Planning Commission's decision for DR-99-22 A2 was appealed by a resident;

WHEREAS, a duly noticed public hearing was held by the City Council on December 6, 2011.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the City Council hereby **DENIES** DR-99-22 A2.

PASSED AND ADOPTED this 6th day of December, 2011.

GARY MONAHAN
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

CITY CLERK OF THE
CITY OF COSTA MESA

CITY ATTORNEY

2.3

FINDINGS

- A. The proposal does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
 - 1. A compatible and harmonious relationship does not exist between the proposed use and existing buildings, site development, and uses on surrounding properties.
 - 2. The proposal is not consistent with the General Plan or Redevelopment Plan.
- B. The Costa City Council has denied DR-99-22 A2. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a) CEQA does not apply to this project because it has been rejected and will not be carried out.
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. 11-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA APPROVING DEVELOPMENT REVIEW
AMENDMENT DR-99-22 A2 FOR EXTENDED ANNUAL
WINTER HOLIDAY HOURS FOR TARGET COSTA MESA

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by John Warren, authorized agent for Target Corporation, requesting approval to amend the condition of approval for Target Costa Mesa's annual operating hours from the day after Thanksgiving to New Year's Day as follows:

- o 12 midnight to 11:00 pm the day after Thanksgiving, and 7:00 am to 12:00 am seven days a week thereafter until New Year's Day.

WHEREAS, a duly noticed public hearing held by the Planning Commission on November 14, 2011 with all persons having the opportunity to speak and be heard for and against the proposal, and DR-99-22 A2 was approved as amended;

WHEREAS, on November 21, 2011, the Planning Commission's decision for DR-99-22 A2 was appealed by a resident;

WHEREAS, a duly noticed public hearing was held by the City Council on December 6, 2011.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the City Council hereby **APPROVES** DR-99-22 A2.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for DR-99-22 A2 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B" as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 6th day of December, 2011.

GARY MONAHAN
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

CITY CLERK OF THE
CITY OF COSTA MESA

CITY ATTORNEY

STATE OF CALIFORNIA))ss
COUNTY OF ORANGE)

COUNTY OF ORANGE)

I, JULIE FOLCIK, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution No. 11__ as considered at a regular meeting of said City Council held on the ____ day of _____, 2011, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the ____ day of _____, 2011, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2011

EXHIBIT "A"

FINDINGS

- A. The proposal complies with Costa Mesa Municipal Code Section 13-29(e) because:
 - 1. Compatible and harmonious relationship between the use and site development, and use(s), and the building and site developments, and uses that exist or have been approved for the general neighborhood. Specifically, the request would be subject to applicable conditions of approval to ensure that no adverse impacts to adjacent uses and properties is created, including requiring the use be operated in a manner that will allow the quiet enjoyment of the surrounding neighborhood, and additional on-site security if requested by the Police Department.
 - 2. Compliance with any performance standards as prescribed elsewhere in this Zoning Code.
 - 3. Consistency with the general plan and any applicable specific plan.
 - 4. The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.
 - 5. The cumulative effect of all the planning applications has been considered.
- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City's environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

- Plng. 1. The use shall be limited to the type of operation as described in the staff report. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment to the development review, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
2. A copy of the conditions of approval shall be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
3. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute whatever security and operational measures are necessary to comply with this requirement.
4. The operator shall be required to provide additional on-site security within the parking area.
5. The use shall be limited to the following hours of operation on an annual basis: 12 midnight to 11:00 pm the day after Thanksgiving, and 7:00 am to 12:00 am seven days a week thereafter until New Year's day. Changes to the winter holiday hours of operation that extend the opening and closing times past the above hours shall be submitted to the Planning Commission for review.
6. All other applicable conditions of approval for DR-99-22 and its subsequent amendments shall remain in effect.
7. The operator shall install barricades to close the driveway access from College Avenue and post appropriate signage advising customers of the driveway closure during the Black Friday sale. The barricades shall be installed no later than 11:00 pm the day of the sale and shall be removed no later than 7:00 am the day of the sale.
8. The operator shall install barricades to provide a 200-foot buffer zone along the northerly parking area to prevent customers from parking within the area during the Black Friday sale. The barricades shall be installed no later than 11:00 pm the day of the sale and shall be removed no later than 7:00 am the day of the sale.

ATTACHMENT 3 APPEAL APPLICATION



City of Costa Mesa

RECEIVED
CITY CLERK

2011 NOV 21 AM 11:12 \$1220.00

- ☐ Appeal of Planning Commission Decision/Rehearing: \$1220.00
☐ Appeal of Zoning Administrator/Building Official/Fire Marshal/Staff Decision: \$690.00

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* AL MORELLI
 Address 2
 Phone 39 Representing Self - resident impacted by Target actions.

REQUEST FOR: ☐ REHEARING ☒ APPEAL ☐ REVIEW**

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

Appeal to the City Council regarding DR 99-22-2A
 "Block Friday hours 12:00 A.M. store hours"
 "attached"

Decision by: FILE

Reasons for requesting appeal, rehearing, or review:

By having store hours at 12:00 A.M. violate the original land use agreement & conditions of approval for DR 99-22 as issued in year 2000.
 12:00 A.M. hours violate the noise ordinance for residential area Sec 13-280(a) and sec 13-283 which is unlawful for any person to make unusual noise which disturbs the peace or quiet of any neighborhood for which cause annoyance to any reasonable person of normal sensitiveness residing in the area.
 Target (applicant) had failed to comply with the terms and conditions and have demonstrated lack of forth compliance with the terms and conditions per DR 99-22. The original land use permit should be subject to revocation as there has been several changes and violations.

Date: 11/21/2011

Signature: A. Morelli

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
 **Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:

Updated July 2011

**Supplemental Document: To Support The "Appeal To DR 99-22 A2", December 6, 2011
Costa Mesa City Council Meeting**

Fellow City Council:

I am asking you to **deny the request for extended hours regarding the Target Store**, grateful for the trust that you will make the right decision.

There is an old saying that a lie can go half way around the city while the truth is putting its shoes on---and as for Target store, a steady drumbeat of misinformation and mischaracterization are given as often to hide the truth.

So instead of asking you to apply the moral, ethical and legal to **deny Target** store request for modification to the original DR99-22 (land use restrictions); here are real and truthful facts for why you should **DENY Target** with their request.

FACT: DR99-22 was recorded in the official records with the County of Orange, on April 18, 2000. Owner (Target) as signed agreed to **execute and uphold all the land restrictions**. Per item 57 of conditions: "Hours of operations for the Target Store shall be limited to between the hours of **8:00 a.m. to 10:00 p.m., seven days a week**".

FACT: Target management publicly acknowledged during year 2000 Planning and City Council meeting/s that they have no intention to become super Target and not to open the store beyond 10:00 PM.

FACT: The Targets store at 3030 Harbor is now a **Super Target**, a change from the original as claimed in year 2000. That's part Target, part grocery store. **Groceries are not subject to sales tax**. The **California Supreme Court** ruled on July 13, 2007 that cities and counties can restrict development of big-box superstores in order to **protect local businesses**. The decision upholds the lower court ruling that allowed city to enact an ordinance prohibiting development of retail stores larger than 100,000 square feet that use more than 5 percent of their space for grocery sales. The 3030 Harbor Target store have a total of 143,500 square feet.

FACT: Per **Planning Commission meeting on July 15, 2005**, Target was **DENIED** their request to open the store at **6:00AM**. Former planning commissioner Egan clearly expressed her concerns: "As to the 6 a.m. opening, she felt it was unreasonable to impose that on the residents to the north. There is no reason they should bear that burden". Commissioner Garlich:"he felt this application was overreaching." Vice Chair Hall: "said he agrees with this denial because the residents next to this property have gone through an awful lot over the years and he saw no reason to subject them to further inconvenience".

RECEIVED
CITY CLERK
2011 NOV 28 AM 9:54
COSTA MESA

FACT: the Target's management folks cannot be trusted. The record shows that **Target provided false and broken promises**. Here are samples of **Violation and Citation**:

- 7/26/07- 5:45 AM Gardner blowing leafs, violation under item 30 -DR99-22
- 7/26/06 : 5:00 AM Noise complain, item 43 per DR99-22
- 11/22/2004, (Sunday) citation # 5751 issued for large semi truck-idling/loading by near the north neighbor area, violation under item 10, ZA-99-47.
- 1/27/03 (1:00AM-3:00AM) parking lot sweeper, violation, item 30 under DR99-22
- 9/14/02 Deliveries in front of the store-citation # 3427

FACT: Target store manager (Tim Kindig) has been the same manager since year 2000 and thus he is fully aware of the conditions and land use restriction. However, he and or his staff do not abide by the law and have so many times violated the land use restrictions.

FACT: the dollar value per each citation as given by code enforcement ranged from \$75 to \$200 per incident, with the latest 11/22/11 for \$300.

FACT: Based on the evidence in the record (**code enforcement and police records**) and find that "Target" store management has demonstrated **lack of faith compliance** with the terms and conditions of development agreement DR99-22 by order.

FACT; During Commission Planning Nov.14, 20011, Mr. Al Morelli (party of interest /owner of adjacent property) was given only 3 minutes to present his input. Mr. William Morelli asked the Planning Commission to yield his three minute time to A.Morelli and he was denied. However, then thereafter Target were called back to answer question, while Mr. A. Morelli was not given any opportunity for rebuttal or express clarification.

FACT: for a Costa Mesa citizen at large—to **appeal** the planning commission decision, where the **citizen** (not the applicant) have to pay \$1,220. *Such \$1,220 fee is prohibitive and restrictive* as most citizens cannot afford or are willing to pay. As with such, the voices of Cost Mesa citizens are mostly do not come forward.

FACT: City of Costa **Code of Enforcement is lacking oversight** in relation to monitoring Target store. Most citations were issued after neighbors calling the city to report violation. The Code Enforcements staff does not work during night hours. Also, Police as they were often called upon, do not normally report a given violation to the code enforcement. **For the record, Specific calls were to made the police over the years, however no records are shown.**

FACT: Regarding Target claim of being responsible corporation - March 11, 2011, **Target Corporation paid California \$22.5 million Settlement for Environmental Violations: Stores Illegally Dumped Pesticides and Hazardous Chemicals.** The lawsuit included all 240 Target stores in the State of California.

FACT: As discovered during the Planning Commission meeting, **Target did violate the store operating hours during year 2010 -2011** (for a full year and half). The store hours are limited to 10:00 PM, where the Target violated the land use restriction by operating till 11 PM. (Refer to citation#9511). A citation fine of \$150 was given for the violation that was occurring for a period longer than a year, which by the way such dollar fine is less than a CM parking dog fine violation.

FACT: Mel lee – CM City Sr. Planner, met with Target staff for his **2010 bi-annual review**, where he was made aware that Target was violating the store hours **and he failed to report it and act on it.** During year 2000, and thereafter, Mel Lee has been responsible for conducting Target Store review since year 2000. Mel lee/city review giving Target good faith finding by his report is now questionable.

FACT: Holiday hours **during year 2010.** Target was operating till **mid night 12:00AM without authorization-** The city failed to observe and report. (Refer to photo taken during this period).

FACT: During the planning meeting of Nov 14, 2011, where Target claimed they were abiding by all the land restriction and rules, then a week later another violation did occur on Sunday 11/20/2011(Refer to citation#9533)

FACT: Friday morning Nov 25, 2011, **Target opened the store at midnight 12:00AM** and thus **violating the land use restriction regarding store hours.** During the Nov 25 Friday early morning, the police (Officer N. Brown) was present at 3030 Harbor and she can testify to the record. She was informed (**2:00AM**) of the violation by showing her the land use restriction/hours document item 57 under DR99-22 (police case #11-12740).

FACT: Per original **noise study (March 2, 2000)**, "Parking lot noise", as claimed in the study, the homes to north to have interior home noise level with 52 dBA. The study was based exclusively with store hours limited by 10:00PM. However, Per CM City **noise ordinance**, the **noise cannot exceed 50dBA after 11:00.**

FACT: As indicated per CM review March 8, 2000 traffic generation study were not conducted claiming the proposed project is within the and below .30 maximum FAR and trip per hour guidelines. However, several years later, the CM city while applying to **Measure M funding** provided **different data** by presenting adverse impact on Harbor Blvd to support their request for funding.

FACT: Per evidence in the record (code enforcement and police records) "Target "store management has demonstrated **lack of faith compliance** with the terms and conditions of development agreement DR99-22 by order.

FACT: Per city code sec 13-15 – "All departments, officials and public employees of the city invested with the duty or authority to issue permits or licenses shall conform to the provisions of this Zoning Code and shall issue no permit or license for uses, buildings or purposes in conflict with the provisions of this code; and any such permit or licenses issued in conflict with the provisions of this Zoning Code shall be null and void. **It shall be the duty of the development services director to enforce** the provisions of this Zoning Code ". Also, "any such **permit or licenses issued in conflict with the provisions of this Zoning Code shall be null and void.**

FACT: For record, **written request were made to city manager** concerning the ongoing and severity of violation as associated with Target, and thus the City has not willing to address the null and void legal requirements, nor willing to file misdemeanor charges as required under **Criminal citation.** Pursuant to State Government Code Sections 36900 and 36901

FACT: Significant changes had occurred since year 2000, at 3030 Harbor location, regarding the original land development. **Thus the city had failed to re-compare year 2000 former analysis to today current data.** All new reviews should match and re-address the negative declaration data, CEQA, EIR and compare to the originally specified by staff reports during year 2000.

FACT: Target management and city staff are compensated and paid to present their organization. However, Mr. Morelli is not paid to defend to protect his property rights. Thus Mr. Morelli efforts to deal with CM city had cost him time, money (\$1,220 to appeal) and also **undue hardship.** Mr. Morelli asked the City Clerk for **fee waiver** and thus he was denied.

I am asking you to **deny the request for extended hours regarding the Target Store. Deny the adoption of any modifications to the original DR99-22. Also, constrain any and all future reviews to DR99-22 as it should be legally binding per agreed and recorded with the land deed use agreement for the 3030 Harbor Blvd. property.**

Based on the evidence and facts, Target has shown their lack of compliance. In addition, I am asking the city officials to apply the governing laws per city code Sec 13-16 (Enforcement) and file criminal charges against Target management for present and any future code violations.

Al Morelli
11/26/2011

2010 Holiday Hours

12:00 AM
Wk 00:21
2010 Holiday Hours
0102
11/21/10

Not an Entrance

Esta no es Entr

Holiday Store Hours

Daily
11/22 - 12/10
8am - 11pm

Daily
11/23 - 12/23
8am - 12am

Sunday
11/28 - 12/3
8am - 10pm

Sunday
11/21
8am - 11pm

Sunday
11/21
8am - 12am

Thanksgiving Day
Thanksgiving Friday

CLOSED

4am - 11pm

Christmas Eve

7am - 3pm

Christmas Day

CLOSED

Day After Christmas

7am - 11pm

Holiday Pharmacy Hours

Mon-Fri
9am - 9pm

Sat & Sun
9am - 6pm

Christmas Eve
9am - 5pm

Christmas Day
CLOSED



Truck Deliveries



Nov 2011 - Truck delivery in front of the store—parked on the red curb



2010 - 2011
Store Hours

CIVIL CITATION

009511

Costa Mesa Municipal Code Violation

11-09-2011 0840 WEDNESDAY
 Date Time ☒ am ☐ pm Day of the Week Prior Citation

TARGET
 Name (First) Middle Last

1000 NICOLET
 Residence Address

MILWAUKEE MN 53440
 City State Zip Code

Driver License Number State Age Birth Date

Sex Hair Eyes Height Weight Race

3030 TARGET HARBOUR BLVD
 Address Of Violation

COSTA MESA CA 92626
 City State Zip Code

20-4 (b)
 Violation CMMC Sec. Violation CMMC Sec.

Fine: \$ 150.00 Fine: \$

OFFICER'S OBSERVATIONS: On the date specified herein, the undersigned officer observed at the specified address; the following conditions:

VIOLATION OF THEIR C.U.P.
 HOURS OF OPERATION.

(150.00)

VIOLATION NOTICE BY:

- ☐ Personal Service
☐ Mail
☒ Property Posted
☐ Person Cited Refused To Sign Receipt For Citation
☐ Violation(s) not committed in my presence, certified on information and belief

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON DATE SHOWN ABOVE.

X
 VIOLATOR: Without admitting guilt, I acknowledge having received the citation.

G. Niculescu 11 ENFORCEMENT
 Issuing Officer ID Number Department

THE LAW REQUIRES THAT YOU COMPLY WITH THIS CITATION OR CONTEST THE VIOLATION. (1) TO COMPLY with this citation, correct the violation immediately, and pay the fine within 30 days (see reverse side). (2) TO CONTEST this citation, you must pay the fine, and request a hearing within 30 days (follow procedure on reverse side).

If you have followed the procedure to contest this citation, your Administrative Hearing will be held at the Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, First Floor, on the 3 day of January 20 12 at 1:30 pm.

Check in at the City Clerk's office.

2956-46

CIVIL CITATION
Costa Mesa Municipal Code Violation

009515

11-14-2011 1030 Monday 0
Date Time ☒ am ☐ pm Day of the Week Prior Citation
ROYAL OAK PROPERTY SERVICE
Name (First) Middle Last
7750 BURNET AVE.
Residence Address
VAN NUYS CA 91405
City State Zip Code
Driver License Number State Age Birth Date
Sex Hair Eyes Height Weight Race
3030 WARDEN BLVD.
Address Of Violation
COSTA MESA CA 92626
City State Zip Code
20-46b
Violation CMMC Sec. Violation CMMC Sec.

Fine: \$ 150.00 Fine: \$

OFFICER'S OBSERVATIONS: On the date specified herein, the undersigned officer observed at the specified address, the following conditions:

TO THE ROAD PARKING AREA FILE
MISSING 2 DRAINAGE GRIDS
AND THE TRUCK HEIGHT LIMIT
PAUL

\$150.00

VIOLATION NOTICE BY:

- ☐ Personal Service
☒ Mail
☐ Property Posted
☐ Person Cited Refused To Sign Receipt For Citation
☐ Violation(s) not committed in my presence, certified on information and belief

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT, EXECUTED ON DATE SHOWN ABOVE.

X

VIOLATOR: Without admitting guilt, I acknowledge having received the citation.

6. NICHOLS ID Number 11 CODE ENFORCEMENT Department

THE LAW REQUIRES THAT YOU COMPLY WITH THIS CITATION OR CONTEST THE VIOLATION. (1) TO COMPLY with this citation, correct the violation immediately, and pay the fine within 30 days (see reverse side). (2) TO CONTEST this citation, you must pay the fine, and request a hearing within 30 days (follow procedure on reverse side).

If you have followed the procedure to contest this citation, your Administrative Hearing will be held at the Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, First Floor, on the 5 day of January 2012 at 1:30 pm. Check in at the City Clerk's office.

CIVIL CITATION

009533

Costa Mesa Municipal Code Violation

11-22-2011 0800 TUESDAY

Date Time ☒ am ☐ pm Day of the Week Prior Citation

Name (First) TIM KINALL Middle Last

Residence Address 3030 LINCOLN BLVD

CITY COSTA MESA CA 92626 State Zip Code

Driver License Number State Age Birth Date

Sex Hair Eyes Height Weight Race

Address Of Violation 3030 LINCOLN BLVD

CITY COSTA MESA CA 92626 State Zip Code

Violation CMMC Sec. 20-4(b) Violation CMMC Sec.

Fine \$ 300.00 Fine \$

OFFICER'S OBSERVATIONS: On the date specified herein, the undersigned officer observed at the specified address, the following conditions:

VIOLATION OF TUESDAY

PERMIT NUMBER 30

VIOLATION NOTICE BY:

- ☐ Personal Service
- ☐ Mail
- ☒ Property Posted
- ☐ Person Cited Refused To Sign Receipt For Citation
- ☐ Violation(s) not committed in my presence, certified on information and belief

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT, EXECUTED ON DATE SHOWN ABOVE.

X VIOLATOR: Without admitting guilt, I acknowledge having received the citation.

Issuing Officer: G. NIZUALS ID Number: 11 Department: CASE Enforcement

THE LAW REQUIRES THAT YOU COMPLY WITH THIS CITATION OR CONTEST THE VIOLATION: (1) TO COMPLY with this citation, correct the violation immediately, and pay the fine within 30 days (see reverse side); (2) TO CONTEST this citation, you must pay the fine, and request a hearing within 30 days (follow procedure on reverse side).

If you have followed the procedure to contest this citation, your Administrative Hearing will be held at the Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, First Floor, on the 7 day of NOV 2012 at 1:30 pm. Check in at the City Clerk's office.

2956-26

COMPLAINT INVESTIGATION

City of Costa Mesa, Development Services Department

Assigned to:

GN

COMPLAINT LOCATION

CDBG ☐

Complaint Address: 3030 Harbor Blvd. - Target Case No.: C11-1643
Property Owner: Target Corp Phone: _____
Address: PO Box 9456, Minneapolis, MN 55440

COMPLAINANT

Name: AL Morelli Phone: (714) 957-1577
Address: 1421 Shawrock Costa Mesa
3412 Geranium St Costa Mesa CA
Complaint Received By: _____ ☐ Hotline Date: 11/4/11 Time: 11:55am

Describe Complaint:

DR-99-22
Target @ Harbor Blvd.
violation/s per DR 99-22
Hours of operation, staff parking Exit Bar on
as late as 11:00pm Parking adjacent to corp. office College Blvd.
Action: #57 Item 42 Exit bar has been
Item 55 removed.
metal grates - missing - blk parking lot
employees parking along north pl
I do request an code enforcement
to visit the site today for
check. 11/4/11 @ 12:00P-11 -
11-9-11 citation issued for hours of operation. Removal
of truck bar and grates not on Target
property so requires separate case / enforcement.
Need to run license plate numbers for cars
parked along north pl.



City of Costa Mesa

RECEIVED
CITY CLERK

2011 NOV 21 AM 11:12

- ☐ Appeal of Planning Commission Decision/Rehearing: \$1220.00
☐ Appeal of Zoning Administrator/Building Official / Fire Marshal / Staff Decision: \$690.00

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* AL MORELLI
 Address Costa Mesa CA 92626
 Phone Representing Self - resident impacted by Target actions.

REQUEST FOR: ☐ REHEARING ☒ APPEAL ☐ REVIEW**

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

Appeal to the City Council regarding DR 99-22-2A
 "Black Friday hours 12:00 A.M. Store
 attached"

Decision by:
 Reasons for requesting appeal, rehearing, or review:

By having store hours at
 original land use agree
 for DR 99-22 as
 12:00 A.M. hour
 residential
 is unlawful
 which
 for

476
 11-21-11/22/11/11
 \$1220.00
 Date
 11/21/11
 City of Costa Mesa
 One Thousand Two Hundred and
 Appeal DR 99-22-2A
 Wells Fargo
 Pay to the Order of
 COSTA MESA, CA 92626-1674
 00476
 runs
 of faith
 for DR 99-22
 are subject to
 rules and violations.

Person you represent and provide proof of authorization.
 Commission Member, City Council, or City Council Member

do only - do not write below this line

PLANNING COMMISSION MEETING OF:
 person or body other than City Council/Planning Commission, date of hearing of

SC
 If app.
 appeal,

Updated July 2011

APR 17, 2000 10:35AM

TARGET CONSTRUCTION 714/542475

NO. 255 P. 3

When recorded mail to:

City of Costa Mesa

Planning Division

P. O. Box 1200

Costa Mesa CA 92628-1200

Recorded in Official Records, County of Orange.
Gary Granville, Clerk-Recorder

114.16 D05 19 0.00 0.00 0.00 0.00 54.00 0.00 0.00 0.00

20000198233 11:47am 04/18/00

114.16 D05 19

0.00 0.00 0.00 0.00 54.00 0.00 0.00 0.00

NOTICE AND DECLARATION
OF

LAND USE RESTRICTION

OWNER:

TARGET CORPORATION, FORMERLY KNOWN AS
DAYTON HUDSON CORPORATION

SUBJECT PROPERTY:

3030 HARBOR BOULEVARD, COSTA MESA, CA 92626

LEGAL DESCRIPTION:

PARCEL A:
PARCEL 2, IN THE CITY OF COSTA MESA, AS
SHOWN ON A MAP FILED IN BOOK 301, PAGES 13
AND 14 OF PARCEL MAPS, IN THE OFFICE OF THE
COUNTY RECORDER OF SAID COUNTY.

EXCEPT ALL OIL, GAS, HYDROCARBONS, MINERAL
AND MINERAL RIGHTS IN AND UNDER SAID LAND,
WITH THE RIGHT TO EXPLORE THEREFORE, SELL,
LEASE AND REMOVE THE SAME, BUT WITHOUT
RIGHT OF ENTRY THEREFORE UPON THE SURFACE,
OR WITHIN THE UPPER 500 FEET MEASURED
VERTICALLY DOWNWARD FROM THE NATURAL
SURFACE, AS RESERVED IN DEED RECORDED
MARCH 3, 1967 IN BOOK 8189, PAGE 9, OFFICIAL
RECORDS AND OTHER DEEDS NOW OF RECORD,

PARCEL B:

AN EASEMENT FOR INGRESS, EGRESS AND
PARKING, AS CREATED IN INSTRUMENT RECORDED
AS INSTRUMENT NO. 19990127389.

17
19P
2N
1CC

APR 17 '00 12:00

1 302 478 4154

PAGE 03

**ATTACHMENT 4
PLANNING COMMISSION MINUTE
EXCERPTS**

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
November 14, 2011**

Application No.: DR-99-22-A2
Site Address: 3030 A Harbor Blvd.
Applicant: Pacific Land Services.
Zone: C1
Project Planner: Mel Lee
**Environmental
Determination:** Exempt

Description:

Amend the condition of approval for Target Costa Mesa's Winter Holiday hours as follows: 12 midnight to 11 p.m. the day after Thanksgiving; and 7 a.m. to 12 a.m. thereafter until New Year's Day. Current approved holiday hours are 7 a.m. to 11 p.m. Mon. – Fri., and 8 a.m. to 11 p.m. Saturday and Sunday from the day after Thanksgiving to New Year's Day.

Commissioners shared their concerns over the barricades proposed to be in the parking lot to prevent driving in and out of the entrance to College Avenue and parking spaces for the number of people that will be shopping there.

The Commissioners also discussed possible noise issues in the parking lot during early morning and late evening hours and enough security to manage these issues.

Chair McCarthy noted the metal guard height pole that was at the entrance of the parking lot to keep large commercial vehicles from entering and exiting at College Avenue was removed by the property owner. Senior Planner Mel Lee responded that it is a requirement of the property owner to adhere to the condition and replace the pole.

Chair McCarthy also asked Deputy Attorney Bettenhausen if by approving the additional hours, would they be setting a precedent for other stores that may ask for the same time extensions? Deputy Attorney Bettenhausen responded that each decision would be based on the individual factors of each request and therefore would not necessarily be considered precedent setting.

PUBLIC COMMENTS:

John Warren with Pacific Land Services agreed to conditions and expounded on the benefits of providing residents with the extra operating hours in which to shop. He responded to the Commissioners' questions as to the need for the requested extra hours which would extend until New Year's Day.

Commissioner Fitzpatrick mentioned that Target had already been operating under extended hours that had not been approved by the Planning Commission, even though the store Manager had been there for 10 years and should have been aware of the requirements. Commissioner Fitzpatrick expressed that he agreed that the additional "Black Friday" hours would provide a benefit to the community, but he is disappointed that Target has not made any effort to reach out to the community and work with the residents. He also directed staff to provide notice to the Halecrest Home Owner's Association of future hearings related to Target.

Chair McCarthy stated concerns with the perception in the community that Target has not been a good corporate neighbor and that the community has lost their trust.

Louise Rose, forty year resident of Costa Mesa, has family that lives behind Target. Ms. Rose supports the additional hours. She has worked for other Targets in residential areas and has never experienced issues with holiday extended hours. She believes that the extended hours will provide increased staffing hours for employees and provide additional tax revenue to the city, all of which create an economic benefit to Costa Mesa residents.

Al Morelli, Costa Mesa resident, is opposed to Target's request for extended hours. He is concerned that by extending the hours, the City is rewarding Target for violating the original agreement. He has asked the Planning Commission to deny the request due to Target's noncompliance with conditions of approval.

Beth Refakes, Costa Mesa resident, also opposes granting Target the additional holiday hours. She is concerned about the noise levels and barricades which she feels will have a negative impact on the residents. She believes that Target has not been a good neighbor to the residents as evidenced by their being out of compliance with the original agreement and asks that the Planning Commission deny their request.

Mike Brumbaugh, a resident of the Halecrest Community, indicated that he has no position on Target's request and that decision would need to be decided by Planning Commission. He is concerned that Target did not comply with the original agreement by extending their hours beyond what was originally approved.

MOTION: Approve, based on the evidence in the record and the findings contained in Exhibit "A", DR-99-22 A2 for the requested hours of 12 midnight to 11:00 pm the day after Thanksgiving only, known as "Black Friday", for Target Costa Mesa on an annual basis. The hours of operation of 7:00 am to 11:00 pm Mon-Fri., and 8:00 am to 11:00 pm Sat. and Sun. from the day after Black Friday to New Year's Day as approved under DR-99-22A shall remain unchanged.

Moved by Commissioner Fitzpatrick, seconded by Vice Chair Clark.

The motion carried by the following roll call vote:

Ayes: McCarthy, Clark, Dickson, Fitzpatrick, and Salcedo

Noes: None

Absent: None

**ATTACHMENT 5
PLANNING COMMISSION REPORT AND
ATTACHMENTS**



PLANNING COMMISSION AGENDA REPORT

VI 5

MEETING DATE: NOVEMBER 14, 2011

ITEM NUMBER:

SUBJECT: AMEND DEVELOPMENT REVIEW DR-99-22 A2 FOR EXPANDED ANNUAL WINTER
HOLIDAY OPERATING HOURS FOR TARGET COSTA MESA
3030 A HARBOR BOULEVARD

DATE: NOVEMBER 3, 2011

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611 (mel.lee@costamesaca.gov)

PROJECT DESCRIPTION

The proposed project is an amendment to a previously-approved Development Review to allow the following:

- Amend the condition of approval for Target Costa Mesa's annual operating hours during the winter holiday season from the day after Thanksgiving to New Year's day to allow increased opportunities for holiday shopping, as follows.

Current Approved Winter Holiday Hours:

- 7:00 am to 11:00 pm Mon.-Fri., and 8:00 am to 11:00 pm Sat. and Sun. from the day after Thanksgiving to New Year's Day.

Proposed Winter Holiday Hours:

- 12 midnight to 11:00 pm the day after Thanksgiving, and 7:00 am to 12 midnight seven days a week thereafter until New Year's Day.

APPLICANT

The applicant is John Warren, representing Target Corporation, the property owner.

RECOMMENDATION

Approve by adoption of Planning Commission resolution, subject to conditions of approval.

BACKGROUND

Project Site/Environs

Target is located within the Costa Mesa Square shopping center on the east side of Harbor Boulevard, north of Baker Street.

On March 13, 2000, the Planning Commission, by a vote of 5-0, approved Development Review DR-99-22 to construct a 143,500 square foot Target store, a 3,420 square foot district office, and a 10,830 square foot outdoor garden center (since closed).

Target's normal (i.e., non-holiday) hours are 8:00 am to 11:00 pm Mon-Sat, and 8:00 am to 10:00 pm Sun.

On November 13, 2000, Planning Commission approved a modification to the Development Review as DR-99-22A to allow extended winter holiday sale hours from 7:00 am to 11:00 pm, seven days a week, on an annual basis, beginning from the day after Thanksgiving through New Year's Day. The extended holiday sale hours apply to the store operating hours for customer service only and do not apply to the delivery hours for the Target store.

On July 11, 2005, Planning Commission, by a vote of 5-0, denied DR-05-09, a request to allow Target to open an hour earlier (6:00 am) during the same holiday season period, citing potential adverse noise impacts to the single-family residences to the north of the property.

A copy of the Planning Commission report can be found on the City website at the below link:

<http://www.ci.costa-mesa.ca.us/council/planning/2005-07-11/071105DR0509.pdf>

A copy of the Planning Commission meeting minutes can be found on the City website at the below link:

http://www.ci.costa-mesa.ca.us/council/planning/pm_050711.pdf

ANALYSIS

Request for extended hours

The applicant has submitted a request to amend the current condition of approval for annual winter holiday sales. Typically, amendments to Development Reviews are approved at staff level (no public hearing required); however, due to the proximity of the development to residential properties, the Commission directed staff to provide public notice for any revisions to Target's conditions of approval.

According to the applicant, the trend in retail over the last several years has been to open early the day after Thanksgiving (usually referred to as "Black Friday") to meet the extra customer demand that the shopping day generates. The applicant is proposing to open

the store at 12 midnight the day after Thanksgiving - Friday, November 25, 2011 - which is consistent with the opening time for the other Target stores in the Southern California region.

Staff Justifications for Approval

Staff supports the request based on the following:

- *The recommended conditions of approval will ensure the proposed use is compatible with adjacent residential uses.*

The extended hours would be subject to applicable conditions of approval to ensure that no adverse impacts to adjacent uses and properties is created, including requiring the store be operated in a manner that will allow the quiet enjoyment of the surrounding neighborhood, and provide additional on-site security if requested by the Police Department.

- *The Police Department has no objections to the proposed use.*

The Police Department has reviewed the proposed extended hours and has no objections to the proposal. With regard to crowd control, all Target stores are required to adhere to a crowd control plan implemented by Target's corporate offices and with input from law enforcement. A condition of approval also requires increased on-site security on an as needed basis if determined by the Police Department.

- *The Costa Mesa community will gain a benefit from the extended winter holiday hours as City residents will not have to travel to Target stores outside of the City that open earlier for holiday sales.* Other Target stores in Santa Ana and Irvine will observe the same extended holiday hours. Additionally, there would be a tangible economic benefit in terms of additional sales tax revenue to the City as a result of the extended holiday hours.

It is staff's opinion that the request, with the recommended conditions of approval, will be compatible with the other uses in the immediate vicinity. Compliance with the conditions of approval will allow this use to operate with minimal impact on surrounding properties and uses.

ENVIRONMENTAL DETERMINATION

If approved, the request would be exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities. If the request is denied, they would be exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15270(a) for projects which are disapproved.

GENERAL PLAN CONFORMITY

With the recommended conditions of approval, the request will be consistent with surrounding uses, as specified in Objective LU-1F.2 of the General Plan Land Use Element.

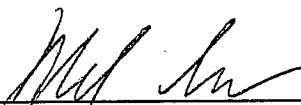
ALTERNATIVES

The Commission has the following alternatives:


1. Approve the request with the recommended conditions of approval to ensure any impacts to the adjacent properties and uses is minimized; or
2. Deny the request. Target could still continue to operate under the currently approved winter holiday hours.

CONCLUSION

It is staff's opinion that the request, subject to the recommended conditions of approval, will be consistent with the City's Zoning Code and General Plan. The proposed conditions will minimize any adverse impacts to surrounding properties. Therefore, staff supports the applicant's request.



MEL LEE, AICP
Senior Planner



CLAIRE FLYNN, AICP
Acting Asst. Development Services Director

Attachments: ~~1. Draft Planning Commission Resolution~~
2. Applicant's Request
~~3. Location Map~~

cc: Interim Development Services Director
Deputy City Attorney
City Engineer
Transportation Svs. Manager
Fire Protection Analyst
Doug Johnson, Police Department
Staff (4)
File (2)

John Warren, AICP
Pacific Land Services
2151 Salvio Street, Suite S
Concord, CA 94520

Target Corporation
Attn: Timothy Kindig
3030 A Harbor Boulevard
Costa Mesa, CA 92626

Target Corporation
PO Box 9456
Minneapolis, MN 55440

File:	Date:	Time:
-------	-------	-------



PROJECT DESCRIPTION

The proposed project is a minor conditional use permit to revise the operating hours for the Target Store located at 3030 Harbor Boulevard.

The current approved operating hours per DR-99-22A: are as follows:

"The store operating hours shall be from 7 am, to 11 pm, Monday through Friday, and from 8 am to 11 pm, Saturday and Sunday from the day after Thanksgiving through New Year's. The Garden Center shall maintain it's current operating hours."

The proposed new operating hours are as follows:

"The store operating hours shall be from 12:00 AM to 11:00 PM for the day after Thanksgiving and 7:00 AM to 12:00 AM daily from the Saturday after Thanksgiving until New Year's Day."



DESCRIPTION OF JUSTIFICATION FORM

In recent years, the holiday shopping season has traditionally kicked off on the day after Thanksgiving. Stores across the country have been trending toward opening their stores earlier to meet the demand and excitement that this shopping day generates. Target is planning on opening all of their Southern California stores at Midnight on the Friday after Thanksgiving. Some of the general advertising for Target in the region will focus on the store opening hours on the day after Thanksgiving. In previous years, the Costa Mesa store did not open at the same time as other Target Stores due to the operating hour restrictions. Many guests arrived at the Target Store in hope of an early opening on this day. Target staff had to turn away the confused guests.

The proposed change to the operating hours will enable the store to open at Midnight with all of the other Target Stores in the region. The extra operating hour on remaining holiday season shopping days (11:00 PM to 12:00 AM) is also consistent with other Target Stores in the area. Once the holiday season is over, Target will once again resume normal operating hours.

CITY OF COSTA MESA
Development Service Department
P.O. Box 1200, Costa Mesa, CA 92628-1200

PROJECT NO: DR-99-22A

DATE: November 15, 2000

TO: James J. Theusch
Target Corporation
1000 Niccollet Mall, TPN-12
Minneapolis, MN 55403

At the regular meeting of Costa Mesa Planning Commission held on November 13, 2000 the above-referenced item was considered and the following action taken:

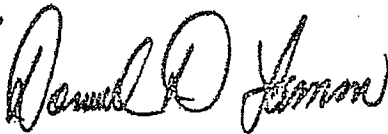
Motion 1: Approved the modification based on information and analysis contained in the Planning Division staff report dated November 7, 2000 with the following changes and additions:

- ✓ (1) The store operating hours shall be from 7 a.m. to 11 p.m., Monday through Friday, and from 8 a.m. to 11 p.m. Saturday and Sunday, from the day after Thanksgiving through New Year's. The Garden Center shall maintain its current operating hours.
- (2) Additional security shall be provided in the parking lot during evening hours of operation. (5-0)

Motion 2: Directed staff to notice residents within a 300-foot radius regarding all future changes relating to the Target project. (5-0)

Should you have any questions concerning the Commission's decision or wish to appeal to the City Council, please contact your project Planner Mel Lee at 754-5245.

Sincerely,



Donald D. Lamm, Development Services Director

cc: Mike Baxter
Target Greatlands
3030 Harbor Boulevard
Costa Mesa, CA 92626

H.A. Covert Enterprises, Inc.
111 West Ocean Boulevard, Suite 2101
Long Beach, CA 90802



ATTACHMENT 6
PLANNING COMMISSION RESOLUTION

RESOLUTION NO. PC-11- 53

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING DEVELOPMENT REVIEW AMENDMENT DR-99-22 A2 FOR EXTENDED ANNUAL WINTER HOLIDAY HOURS FOR TARGET COSTA MESA, AS AMENDED.

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by John Warren, authorized agent for Target Corporation, requesting approval to amend the condition of approval for Target Costa Mesa's annual operating hours from the day after Thanksgiving to New Year's Day as follows:

- o 12 midnight to 11:00 pm the day after Thanksgiving, and 7:00 am to 12:00 am seven days a week thereafter until New Year's Day.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 14, 2011, with all persons having the opportunity to speak for and against the proposed project;

WHEREAS, the Planning Commission considered the original proposal to amend the holiday hours for Target Costa Mesa throughout the holiday season; however, the Planning Commission limited its approval of extended holidays hours to a single day, the day after Thanksgiving;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **APPROVES** DR-99-22 A2 with respect to the property described above for the requested hours of 12 midnight to 11:00 pm the day after Thanksgiving only, known as "Black Friday", for Target Costa Mesa on an annual basis. The hours of operation of 7:00 am to 11:00 pm Mon.-Fri., and 8:00 am to 11:00 pm Sat. and Sun. from the day after Black Friday to New Year's Day as approved under DR-99-22A shall remain unchanged.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for DR-99-22 A2 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B" as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be

subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 14th day of November, 2011.



Colin McCarthy, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)

COUNTY OF ORANGE)

I, Claire Flynn, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on November 14, 2011, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Claire Flynn

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The proposal complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. Compatible and harmonious relationship between the use and site development, and use(s), and the building and site developments, and uses that exist or have been approved for the general neighborhood. Specifically, the request would be subject to applicable conditions of approval to ensure that no adverse impacts to adjacent uses and properties is created, including requiring the use be operated in a manner that will allow the quiet enjoyment of the surrounding neighborhood, and additional on-site security if requested by the Police Department.
 2. Compliance with any performance standards as prescribed elsewhere in this Zoning Code.
 3. Consistency with the general plan and any applicable specific plan.
 4. The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.
 5. The cumulative effect of all the planning applications has been considered.
- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City's environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

- Plng. 1. The use shall be limited to the type of operation as described in the staff report. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment to the development review, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
2. A copy of the conditions of approval shall be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
3. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute whatever security and operational measures are necessary to comply with this requirement.
4. The operator shall be required to provide additional on-site security within the parking area.
5. The use shall be limited to the following hours of operation on an annual basis: 12 midnight to 11:00 pm the day after Thanksgiving only, known as "Black Friday". The hours of operation of 7:00 am to 11:00 pm Mon.-Fri., and 8:00 am to 11:00 pm Sat. and Sun. from the day after Black Friday to New Year's Day as approved under DR-99-22A shall remain unchanged. Changes to the winter holiday hours of operation that extend the opening and closing times past the above hours shall be submitted to the Planning Commission for review.
6. All other applicable conditions of approval for DR-99-22 and its subsequent amendments shall remain in effect.
- Plng. 7. The operator shall install barricades to close the driveway access from College
Comm. Avenue and post appropriate signage advising customers of the driveway closure during the Black Friday sale. The barricades shall be installed no later than 11:00 pm the day of the sale and shall be removed no later than 7:00 am the day of the sale.
- Plng. 8. The operator shall install barricades to provide a 200-foot buffer zone along the
Comm. northerly parking area to prevent customers from parking within the area during the Black Friday sale. The barricades shall be installed no later than 11:00 pm the day of the sale and shall be removed no later than 7:00 am the day of the sale.

ATTACHMENT 7
TARGET CODE ENFORCEMENT MEMO

City of Costa Mesa

Inter Office Memorandum

TO: PLANNING COMMISSION

FROM: WILLA BOUWENS-KILLEEN, CHIEF OF CODE ENFORCEMENT

DATE: NOVEMBER 14, 2011

SUBJECT: TARGET ENFORCEMENT

Below is a summary of the Code Enforcement history for Target since the building was finalized in late 2000:

Year	Complaint and occurrence							Total
	Hours of operation	Employee parking @ north pl	Deliveries outside of approved loading area	Noise	Truck idling	Outdoor display	Other	
2011	1	1	1					3
2010							1	1
2009								0
2008								0
2007				1				1
2006				1			1	2
2005		1		1				2
2004		1	1		1			3
2003	1	2	1	2			2	8
2002			3			2	1	6
2001				1				1
2000				2			1	3
Total complaints:								30

Excluding the complaints received over the past week, the last previous noise-related complaint was registered in 2007. Target management appears to be responsive to Code Enforcement in working to address code enforcement matters. For example, the noise-related cases were usually closed within a two to three days, although staff did continue to monitor the site for an additional time period for some of the cases.

Attachment: Copies of complaints

cc: Interim Development Services Director
Acting Assistant Development Services Director
Deputy City Attorney
City Engineer
Staff (4)
File (2)

ATTACHMENT 8
CORRESPONDENCE RECEIVED FROM
PUBLIC

Re: Target extended hours

NOV 14 2011

Planning Commissioners,

My name is Louise Rose and I've lived in Costa Mesa for over 40 yrs, 6 in Halecrest. Though I don't live behind Target I do have family that lives directly behind Target. I have been employed by Target for 11 years at 4 different stores as a Human Resources Executive Team Leader.

In my experiences at all 4 stores, we have never had an issue with extended hours during the Holiday Season. I've worked in the Costa Mesa store, 2 Santa Ana stores and a store in Garden Grove. All of these stores are surrounded by single family homes and apartments. I have never experienced any complaints from neighbors in regards to traffic, increased noise or criminal activity. When we opened at 4am on Black Friday, guests began arriving and waiting in line on the Eve of Thanksgiving Day. Not once in all four stores did our guest's cause any issues for the neighbors or the police. The Guest's bring lawn chairs; TV's, phones or radios to occupy their time while waiting in lines. These lines can be very long and are always manageable. Depending on what store I was at and the time I was scheduled, I would drive to work between the hours of 12am and 3am on Black Friday. Though there were more people out than usual during these hours, I never experienced traffic. People are generally in a great mood in anticipation of shopping for great deals.

The Costa Mesa Target has employed and currently employees many Halecrest, Mesa Verde and Costa Mesa residents. Even through this tough economy Target did not lay off employees. Target has been able to employee many people who were affected by layoffs.

By approving Target's request, we will not only increase our Tax revenue, Target will increase current Team Member hours, as well as increase hiring. An increase in hours and staffing will be a huge economic benefit to so many residents in our community.

This City of Costa Mesa (like many others) can use the increased Tax Revenue. As an example of what we could lose; LY on Black Friday, my family alone spent over \$4000.00, most at Target. Most of this was spent at the Santa Ana store. How many other Costa Mesa residents are shopping in Santa Ana, Irvine, Newport Beach and other surrounding cities?

I've communicated with many Halecrest Homeowner's, including many that live directly behind Target. The feedback I've received has been very positive towards allowing Target to extend their hours. Personally, I feel as a community if we allow the extended hours, it is a win for all concerned.

Commissioners, I'm hoping that the decision at the end of Monday's meeting will be based on what is best for the community as a whole.

Thank you, Louise Rose, Costa Mesa.

NOV 14 2011

Fellow Planning Commissioners:

I stand here today asking you to **deny the request for extended hours regarding the Target Store**, grateful for the trust that you will make the right decision.

I spent 6 month of my life during year 2000 to find a common compromise for allowing the development of the Target center at 3030 Harbor. We were told all along that the new Target development will be much like the former FEDCO. Now, 11 years later you can compare and judge for yourself as it now not the same as the original FEDCO center. The former commission and city council worked hard to prepare and approve **DR99-22**, which are the binding conditions of approval for the land use development. This document represents the words of the people which have been spoken during these public hearing. Require that commercial projects abutting residential properties adequately protect the residential use from the excessive or incompatible impacts. Yet, every so often the folks at Target Store want to play with different rules and not to abide by the agreement, but the city need to be faithful to the ideals of good government, and true to founding documents.

So it is noted, a DR99-22 was agreed and recorded with the County of Orange, on April 18, 2000, for the future generation of Costa Mesa. Now the folks at Target claim of crisis and ask again to change the agreement, to eliminate key conditions, a nagging demand that we need to change the rules of good moral and ethics.

I'm disturbed that I even have to be here today. Now, I have to defend my family home against the Target retail baron. Time and again, I sacrificed for a better Costa Mesa. This is the journey I continue today. But the time of protecting narrow special interests - that time has surely passed. ~~Starting today with your decision, the City must rebuild the trust to abide by the original DR99 agreement as documented and recorded.~~

Over the last 11 years, the folks at Target Store provided false and broken promises. The Planning Commission should stand strong and not to reward the folks who violate the law. The time has come to reaffirm and to carry forward that trust, passed on from the former Commissioners to you: the given promise that we need to abide by the agreement as established under DR99-22, as it represent the citizens' voices of Costa Mesa. In reaffirming the greatness of our city, we understand that greatness is never a given. It must be earned. We do not need to have short-cuts or settling for less.

Now, there are some who question to the scale of lies, deceptions and violations. Target management has short memories. For they have forgotten that by intent, they violated the DR99-22 agreement more than once. The record/s of former violations is well documented and is clear, it has already done; As for Friday November 3, 2011; the store hours as open for 11:00 PM were

in violation, as given - the **store hours per DR99-22, item 57** clearly state the hours of operation to be from **8:00AM till 10:00PM**. Thus a citation was issued by the Code Enforcement. The arguments that they will abide by the new changes no longer apply.

Nor is the question before us whether Target store hours need to extend till mid nights while pretending that more hours will generate wealth is unmatched, but without a watchful eye, Target demand can spin out of control - and that a city cannot prosper long when it favors only the prosperous.

As for city staff report, the report does contain major errors, especially the current store operating hours. Opinions need to be supported by facts, data and science; like noise control study, survey of neighbors, and tabulation of former citations. Plus, justification needs to include traffic impact studies, review of security measures, added police cost and to prepare CEQA and EIR. Note that more exhaust will worsen the health of residence. How about the quality of my life and enjoyment of my own property.

As for the DR99-22 agreement, it was ~~prepared and documented to assure the rule of law, an~~ agreement that should govern for generations. The Planning Commission is the keeper of this agreement. **Guided by these principles once more, I ask you to deny the request for any new changes or more modifications.**

To the Management folks at Target, you need to seek a new way to move forward, to abide and respect the neighbors. To Mr. Tim Kindig - you have been the Target Store manager since year 2000; you already demonstrated corruption and deceit. You know that you are on the wrong side of history. I can no longer afford more lies from you; nor can the City of Costa Mesa consume more resources to police you.

As we consider the road that unfolds before us, per the past violations as cited, Target did not abide by the original conditions of approval under DR99-22, **the city of Costa Mesa need to revoke the conditions of approval for the land use as they have duties to apply the law.**

For the Planning Commission of Costa Mesa, in the face of moral, ethics and legal, let do the right thing- which is to **deny Target Store request for extended hours.**

Deny the request for **DR-99-22 A2**

Thank you. God bless you and God bless the City of Costa Mesa.

Al Morelli - 11/14/2011



DESCRIPTION OF JUSTIFICATION FORM

In recent years, the holiday shopping season has traditionally kicked off on the day after Thanksgiving. Stores across the country have been trending toward opening their stores earlier to meet the demand and excitement that this shopping day generates. Target is planning on opening all of their Southern California stores at Midnight on the Friday after Thanksgiving. Some of the general advertising for Target in the region will focus on the store opening hours on the day after Thanksgiving. In previous years, the Costa Mesa store did not open at the same time as other Target Stores due to the operating hour restrictions. Many guests arrived at the Target Store in hope of an early opening on this day. Target staff had to turn away the confused guests.

The proposed change to the operating hours will enable the store to open at Midnight with all of the other Target Stores in the region. The extra operating hour on remaining holiday season shopping days (11:00 PM to 12:00 AM) is also consistent with other Target Stores in the area. Once the holiday season is over, Target will once again resume normal operating hours.

***Update November 11, 2011*:**

The Target store has been opening from 8:00 AM -11:00 PM for since last year according to the store. The store manager indicated that the store is unaware of any complaints or violations reported regarding the extra hour of operation prior to a visit from code enforcement last week. Immediately upon receiving notice of the violation, the store has changed its closing hours until 10:00 PM. The sign placard containing the store hours was removed on November 10, 2011. Target would like to request that the application be amended for a separate action be made at future planning commission meeting to allow the store to operate during the non-holiday season until 11:00PM.



PROJECT DESCRIPTION

The proposed project is a minor conditional use permit to revise the operating hours for the Target Store located at 3030 Harbor Boulevard.

The current approved operating hours per DR-99-22A: are as follows:

"The store operating hours shall be from 7 am, to 11 pm, Monday through Friday, and from 8 am to 11 pm, Saturday and Sunday from the day after Thanksgiving through New Year's. The Garden Center shall maintain it's current operating hours."

The proposed new operating hours are as follows:

"The store operating hours shall be from 12:00 AM to 11:00 PM for the day after Thanksgiving and 7:00 AM to 12:00 AM daily from the Saturday after Thanksgiving until New Year's Day."

Update November 11, 2011

Target is requesting that the store operating hours for non-holiday hours be extended from 10:00 PM to 11:00 PM. Target would like this action to be heard at a future Planning Commission meeting.

NOV. 01 2011
10

November 6, 2011

To: The Costa Mesa Planning Commission

From: Tom & LouAnne McCormick

Costa Mesa, CA 92626

Tom's cell

LouAnne's cell

Re: Application # DR-99-22 A2 – TARGET WINTER HOURS

To: The Costa Mesa Planning Commission –

We are extremely concerned about the Official City Notice we received at the end of last week in which we were notified of Target's request to extend hours of operation. We will be out of town the evening of 11/14 and therefore unable to attend the hearing – please accept this letter in lieu of our appearance.

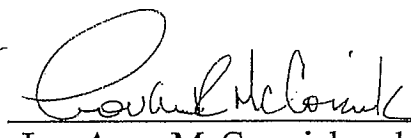
When Target originally negotiated with Halecrest residents they made a point of assuring all concerned that there would be no attempts to extend the hours of operation in the future since the store is bordered on three sides by residential property. (Note: Mel Lee was the City liaison and attended most of these meetings, one of which was held in our home).

We are already disturbed by car alarms and general car noise in the parking lot and ANY extension of hours will directly impact our peaceful enjoyment of our home. The cleaning crews for the parking lot area are very noisy and they would have to start even earlier each day – which will also disturb our sleep. Perhaps the management of Target should consider how this request would impact its residential neighbors – we are also their customers.

Please feel free to call either of us to discuss further, we have listed our phone numbers above. We are looking to The City to uphold the current Conditional Use Provisions "as is" and not grant Target the amendment, thank you for your help.

Sincerely,


Tom McCormick 11-7-11
date


LouAnne McCormick 11/7/2011
date

From: Al Morelli
Sent: Sunday, November 06, 2011 9:29 PM
To: PLANNING COMMISSION
Subject: re nov 14 meeting DR99-22

VI. 5
DR99-22

Public input regarding DR99-22
Thank you for your consideration

Also, please note that the staff report does include **a major error** regarding the current store hours.

Per the official DR99-22 document, item 57: "Hours of operation for the Target Store shall be **limited to between the hours of 8:00Am to 10:00PM** , seven days a week". Staff should and need to provide the official DR99-22 full document as recorded into the county records to be part of the meeting record.

Also, item 42 and item 55 per the DR99-22 should be noted.

Also, the staff need to provide a copy/s of all the code enforcement citations and tabulate all the results as issued by the city against Target store for failing to abide by the DR99-22 conditions. For the records, there were several **police reports** and **code enforcement documents** toward that regards. Also note, as per last Friday 11/4/11, the store was operating and open with hours to 11:00PM which is in violation.

--

Al Morelli

Items for considerations.....

The Planning Commission should investigate the city of Costa Mesa for the legality of continuous changes against the mitigated land use agreement DR99-22, lack of code enforcement oversight for the pre-agreed DR99-22 and the manipulation of the Environmental Impact Report (EIR), all as part of Target Store land use (3030 Harbor Blvd.) development agreement. Also, the city plays with different rules and failed to file under the California Environmental Quality Act (CEQA) as mandated by law. Any orders as recorded per DR99-22 as subject to conditions should be enforced.

The original store hours as originally as adopted (year 2000), were to be governed by and shall be limited to between the hours of 8:00AM to 10:00PM, seven days a week. Any changes to store operating hours will impact and violate the quiet enjoyment of the surrounding neighborhood.

Based on the evidence in the record and find that "Target "store management has demonstrated **lack of faith compliance** with the terms and conditions of development agreement DR99-22 by order. The original land use permit should be subject to revocation as there have been material changes and violations that occurred in the operation and the Target's management had failed to comply with several conditions of approval.

The review finding by city staff as given are based on self generated opinion and does not

contain actual studies nor based on scientific facts. Staff has omitted needed studies like noise impact during night hours, traffic impact studies, crowd control and security, etc. Such subjective opinion is a conflict of interest, as driven by the economic benefits in terms of increase of sales tax revenues to the city as a result of extended hours. Associated data with regards to past code violations were omitted and not presented regarding staff finding. Also, the opinion omit the neighbors reported complains over the years.

While the city of Costa Mesa keep changing the land use mitigation conditions, significant impacts would occur at 3030 harbor location and for the surrounding residential neighbors, the city does not provide adequate information to determine that impacts and how it would be reduced or fully mitigated at location.

Deny the current adoption of any modifications to DR99-22 and constrain any and all future reviews to DR99-22 as it should be legally binding per agreed and recorded with the land deed use agreement for the 3030 Harbor Blvd. property.

LEE, MEL

From: LEE, MEL
Sent: Friday, November 04, 2011 12:09 PM
To: 'John Warren'
Subject: FW: CM Target store per DR99 22

From: Al Morelli [mailto:[al.morelli@cityofsanrafael.org](#)]
Sent: Friday, November 04, 2011 11:06 AM
To: LEE, MEL
Cc: FLYNN, CLAIRE
Subject: Re: CM Target store per DR99 22

Me: per our phone call, please note a current violation as it going on today, which is the "Exit Only" to college Ave.

Install height restriction bar across the Exit Only" drive on College ave to limit vehicles over 2.5 feet.

Please note, that such restriction bar has been removed---which is clear violation as stated per DR99-22. The code enforcement staff should issue immediate citation.

Also, I highly suggest that as part of the city staff report regarding the upcoming planning commission meeting, that all historical data and records since year 2000 should be brought back for analysis.

Such analysis, should include the original CEQA report for comparison against today finding regarding validation of traffic, noise level and all environmental impact

I strongly oppose the approval of all and new changes as legally approved for DR99-22.

Thanks for your consideration.

Al Morelli